

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

No. 18-CR-03989 WJ

vs.

ALLISTER QUINTANA,

Defendant.

THIRD UNOPPOSED MOTION TO RESCHEDULE SENTENCING

Defendant Allister Quintana, through his attorney, Ray Twohig, moves this Court for an order rescheduling the sentencing, which is currently set for August 21, 2020 9:30 am (Doc 69 Text) due to the complications arising from the Covid 19 Pandemic, with a proposed additional delay of two months. The grounds are as follows:

1. The Defendant has obtained the assistance of Dr. Christine Johnson, PhD, a forensic psychologist, to aid the court and counsel in understanding the mental health issues which the court should consider in imposing sentence in this matter.
2. The Presentence Report has been filed and submitted to counsel by the probation office on March 16, 2020. It has been reviewed by counsel and mailed to the Defendant, who is in custody at the McKinley County Detention Center. Due to orders issued by New Mexico Governor Lujan Grisham, visitation by counsel and Dr. Johnson is restricted, and both counsel and Dr. Johnson are directed and encouraged to shelter in place at the current time. Mr. Quintana is housed at the McKinley County Detention Center, which does not allow in person visitation. This

Court has substantially restricted activities taking place at the courthouses, and has entered orders, including Administrative Order 20-MC-004-12 on March 30, 2020, finding that, depending on their circumstances, sentencings “cannot be conducted in person without seriously jeopardizing public health and safety” and authorizing use of video or telephone conferencing.

3. The sentencing in this case, based on a prior motion to reschedule the sentencing, has been scheduled to be in person on August 21, 2020 (Doc 69), with Defendant’s Sentencing Memorandum deadline set for July 13, 2020. (Doc 67)
4. The Sentencing Memorandum cannot be timely completed because Dr. Johnson has been unable to complete her evaluation. She has not been able to visit with Mr. Quintana in order to do so. However, she has been able to arrange Zoom conferences with him. These are difficult to schedule and conduct, since reception is uneven and the evaluation process is delayed considerably by the use of this method. She estimates she will need at least one other Zoom meeting in addition to the three Zoom meetings she has been able to conduct. Once she completes her evaluation, counsel must integrate her evaluation into a sentencing memorandum and address the Government’s motion for an upward departure (Doc 64). A delay of two months for the sentencing, and two months for the sentencing memorandum will hopefully permit the sentencing to take place without further delay, depending on further pandemic developments and their effects on court and custodial circumstances.
5. In the meantime, the time sought should enable the necessary Zoom and telephonic meetings of counsel with Mr. Quintana, and provide the opportunities for

Dr. Johnson to complete a meaningful psychological evaluation for counsel to submit it to the court along with sentencing memoranda to assist the court with sentencing. This time will also be necessary to address objections to the presentence report which has been filed.

Assistant United States Attorney Joseph Spindle does not oppose this motion.

Respectfully submitted,

/s/ Ray Twohig

Ray Twohig
Attorney for Defendant
8998 Rio Grande Blvd., N.W.
Albuquerque, NM 87114
Phone: 505/898-0400

I hereby certify that on the 10th day of July, 2020, I filed the foregoing electronically through the CM/ECF system, which caused all parties and counsel of record to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

/s/ Ray Twohig

Ray Twohig